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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,570	10/31/2003	Nicholas Gerald Grey	100103.52885US	8422

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WASHINGTON, DC 20005-2004

EXAMINER

CHIN, RANDALL E

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/697,570	Applicant(s) GREY, NICHOLAS GERALD	
	Examiner Randall Chin	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2006.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35,36,38-52,56-75,79-83,85,86 and 89-94 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 35,36,38-52,56-75,79-83,85,86 and 89-94 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 35-36, 38-52, 56-75, 79-83, 85-86 and 89-94 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-35 of U.S. Patent No. 7,013,521. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 35-36, 38-52, 56-75, 79-83, 85-86 and 89-94 of the instant application are generic to and fully encompass claims 1-35 of U.S. Patent No. 7,013,521. Claims 35-36, 38-52, 56-75, 79-83, 85-86 and 89-94 of the instant application are anticipated by claims 1-35 of U.S. Patent No. 7,013,521 since they are broader than claims 1-35. More specifically, claims 35-36, 38-52, 56-75, 79-83, 85-86 and 89-94 of the instant application are broader than claims 1 and 17-21

Art Unit: 1744

of U.S. Patent No. 7,013,521 since claims 35-36, 38-52, 56-75, 79-83, 85-86 and 89-94 do not require a handle movable between an upright position and steering positions by rotation about an axis transverse to the axial direction of the handle, said handle being further rotatable around a second axis in said steering positions said second axis of rotation being offset from the axial direction of the handle and wherein the body further comprises a collar that prevents rotation of the handle around said second axis in the upright position.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 75, 79-82 and 94 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan 59166126 (hereinafter Japan '126).

With respect to claim 75, Japan '126 clearly teaches a housing 1 having a cavity (shown in Fig. 1) in the underside, an elongate rotatable brush 4 arrangement extending across the housing, an elongate support member 11 housed in the cavity, and a substantially continuous surface cleaning strip 12 extending across an underside of the housing (Fig. 1), the surface cleaning strip being mounted on the elongate support member, the elongate support member being rotatable between "a cleaning orientation"

Art Unit: 1744

where the surface cleaning strip contacts a surface to be cleaned, and “a second orientation” where the surface cleaning strip is raised clear of the surface to be cleaned, and at least one surface engagement structure 14 mounted on the elongate support member 11 in an orientation relative to the surface cleaning strip 12 such that in the cleaning orientation the surface engagement structure contacts “a first cavity wall” (not positively recited; note, the surface engagement structure 14 contacts “a first cavity wall” at edge 10a or 10b) and in the second orientation the surface engagement structure contacts the surface to be cleaned wherein movement of the surface engagement structure in a cleaning direction causes the cleaning strip to adopt the cleaning orientation and wherein movement of the surface engagement structure in a direction opposite to the cleaning direction causes the cleaning strip to adopt the second orientation (as can be seen in Fig. 1).

As for claim 79, the cleaning strip 12 and the surface engagement means 14 project substantially radially from the elongate member 11 (Fig. 1).

As for claim 80, the cleaning strip and the surface engagement means extend at different angles relative to each other.

As for claim 81, an included angle between the cleaning strip and the friction engaging means is deemed “substantially” 45 degrees (Fig. 1).

As for claim 82, to the extent of what a “tab” means, Japan ‘126 teaches such a “tab” 14 extending from the elongate member.

As for claim 94, in the second orientation the surface cleaning strip 12 contacts a second cavity wall (Fig. 1).

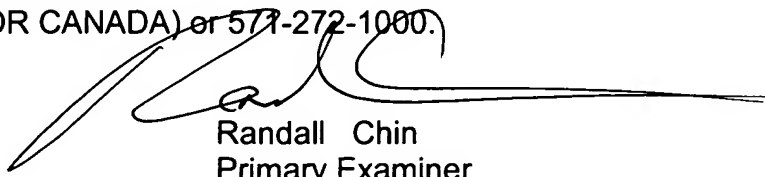
Art Unit: 1744

5. Applicant's arguments with respect to claims 35, 36, 38-52, 56-75, 79-83, 85, 86 and 89-94 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to be 'Randall Chin', is written over the printed name and title.

Randall Chin
Primary Examiner
Art Unit 1744